BETTERMENT

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BETTERMENT

Being the Law of Special Assessment for Benefits in America

WITH SOME OBSERVATIONS ON ITS ADOPTION BY THE LONDON COUNTY COUNCIL

BY

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London

EDWARD ARNOLD

37, BEDFORD STREET, W.C.

Publisher to the India Office

1893

RICHARD CLAY AND SONS, LIMITED,
LONDON AND BUNGAY

PREFACE.

THE attitude of the average citizen towards taxation is not that of Hampden, but of Milton, who sneered at the man "who takes up arms for cote and conduct and his four nobles of Danegelt. Although I dispraise not the defence of just immunities, yet love my peace better, if that were all." Some owners of property in London apparently love their peace better than their property. Yet if the public will not watch closely the characters and ultimate aims of the men who dominate the London County Council, London may

come to play as sinister a part in the history of England, as Paris has played in that of France; or its *rôle* may be merely scandalous, like that of the Municipality of New York. The danger from the size and wealth of London is certainly greater than that of any other city the world has ever seen.

For the American law on special assessment for benefits I am indebted to the very full and clear Treatise on the *Law of Taxation*, written by Dr. Thomas W. Cooley, Professor of Constitutional Law and Political Science in the University of Michigan, to the second volume of the *Laws of New York*, 1882, and to Mr. F. J. Stimson's work on *American Statute Law*.

I must also express my acknowledgment to my friends Mr. Henry Kimber, M.P., and

Mr. G. O. Bellewes, for their excellent suggestions as to the original plan, and for kind assistance in looking through the proof sheets.

A. A. B.

1, Essex Court, Temple.
January, 1893.

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BETTERMENT.

CHAPTER I.

THE LAW OF BETTERMENT IN AMERICA.

BETTERMENT is the special assessment of individuals for benefits done to their property by the local improvements which a public authority may from time to time undertake. It is true the idea is not new: but then what idea in connection with the government of men is not at least as old as the Greeks? In the field of physical science unquestionably new facts are daily discovered which suggest new ideas both in that and adjacent spheres

of thought. But in politics, whatever pretence may be made to new lights, there is not an idea on either side that was not started, discussed, and sometimes acted upon, in what Mr. Lowe once contemptuously called "the municipal squabbles of Athens and Sparta." There is a *locus classicus* in the "Diary" of Samuel Pepys on the subject of betterment. In reference to the rebuilding of London after the great fire, Sir Richard Ford told the Secretary to the Admiralty, "speaking of the new street" (King Street), "that is to be made from Guild Hall down to Cheapside, that the ground is already, most of it, bought. And tells me of one particular, of a man that hath a piece of ground lying in the very middle of the street that must be; which, when the street is cut out of it, there will remain ground enough, of each side, to build a house to front the street. He demanded £700, for the ground, and to be

excused paying anything for the melioration of the rest of his ground that he was to keep. The Court consented to give him £700, only not to abate him the consideration: which the man denied; but told them, and so they agreed, that he would excuse the City the £700, that he might have the benefit of the melioration without paying anything for it. So much some will get by having the City burned! Ground, by this means, that was not 4*d.* a foot before, will now, when houses are built, be worth 15*s.* a foot." I do not quite know why we sober Victorians should revert for our principles of taxation to the reign when

"Jilts ruled the state, and statesmen farces writ."

But if the 19 Car. II., c. 3, is to be taken as a precedent, there are other clauses in the Act, which the London County Council may not like as much as the one enabling

the Lord Mayor to levy a betterment rate. There is a clause imposing a duty of a shilling on every chaldron of coal imported into London, in addition to existing dues, to assist in defraying the cost of rebuilding. There is also a clause enabling the sheriffs to impanel a jury to fix the price of bricks and mortar: and there is a clause to fix wages. "And to the intent no brickmaker, carpenter, bricklayer, mason, plumber, workman, or labourer, may make the common calamity a pretence to extort excessive or unreasonable wages, be it likewise enacted that in case of combination or exaction of unreasonable wages by the said artificers, &c., the said Justices of the Court of King's Bench . . . . shall and may from time to time limit, rate and appoint the wages of the said artificers, &c." I respectfully commend these latter clauses to the pundits of Spring Gardens. But of course the Act of 19 Car. II.,

c. 3, was an exceptional measure, passed to prevent unconscionable individuals from enriching themselves unduly out of "the common calamity," and was applied to labourers as well as landlords. If London were burned down to-morrow, the insurance companies would be ruined, and a good many men would become millionaires, unless the legislature were to pass a measure, (as it certainly would do), to prevent the common calamity being made a pretence to extort excessive or unreasonable profits. I gladly make the friends of betterment a present of 19 Car. II., c. 3, and I quit their most respectable precedent with Burke's remark, that it is dangerous to make the extreme medicine of the constitution its daily bread.

But as a modern practice, betterment undoubtedly comes to us from the United States, though curiously enough Dr. Cooley, to whose luminous, and voluminous, *Treatise on the Law*

of Taxation I shall often refer, asserts that it comes to them from England. With all due respect, I think that Dr. Cooley has, not unnaturally, misunderstood the English cases, which he quotes in his footnotes to pp. 662, 663, 676, and 677, on the making of new sewers and the paving of new streets. The rates imposed by the Commissioners of Sewers in the cases to which he alludes were a tax on user: jurisdiction was given to create an area for special assessment, because a man could not be rated for a sewer which did not serve his property, and whether a man uses a sewer or not is matter of fact, not of opinion; nor do the cases or the statutes, as Lord Denman points out in the decision quoted by Dr. Cooley (Soady *v.* Wilson 3. Ad. & El. 248), say anything of the nature or amount of the benefit. As Dr. Cooley himself puts it, very candidly, "in England, rateability once established, no question of the amount of benefit is permitted

to be raised" (p. 663 note). In the case of new streets, sections 77 and 96 of the Metropolis Local Management Amendment Act 1862 give the vestry or district board power to levy contributions to the cost of paving, sewering, channelling, kerbing, &c., upon adjacent houses and land. And by section 150 of the Public Health Act, 1875, which is the law outside the Metropolis, the local authority may, in the case of a street, not being a highway repairable by the inhabitants at large, call upon adjacent owners to pave, sewer, light, &c., to its satisfaction, and in the event of their failing to do so, the local authority may do the work, and may recover in a summary manner the expenses from the owners in default according to the frontage of their respective premises, and in such proportion as is settled by the surveyor of the urban authority or by arbitration. But it is essential to observe two things in connection with what are known

as private improvement rates. Firstly, they are levied only for the initial cost, for as soon as the street is made the local authority may declare it a highway repairable by the inhabitants at large; they represent the cost of laying out a building estate, of bringing it within the urban area, which naturally ought to be borne by the owners. Secondly, both the sewer rates and private improvement rates are apportioned by the Local Authority upon the basis of value, *i.e.* rental or frontage, and not upon the basis of the amount of benefit. It is most important not to confuse rating zones, such as have been drawn around Wimbledon Common, for instance, with betterment. All the individuals within a rating zone pay the same proportion, irrespective of the *quantum* of benefit which each individual may receive. But the *quantum* of benefit received by the individual is the essence of betterment. If, for example, the authority should decide that a property a

quarter of a mile from the improvement received a greater amount of benefit than a property a hundred yards away, the former would pay more than the latter; and No. 2, a public house, might be assessed for twice as much as No. 3, a lodging house. There is therefore no middle term by which to connect sewer and private improvement rates with betterment.[1]

Nothing impresses the student of American institutions so much as the profound distrust of democracy visible in almost every line of their legislation. In his essays on Popular Government, (the last and greatest work of one of the greatest political writers England ever produced), Sir Henry Maine has emphasised the manifold and elaborate securities by which the Americans have guarded against

[1] The Housing of the Working Classes Act, 1890, applies to unhealthy areas, and insanitary or obstructive buildings. The improvements for which contributions are levied on adjacent owners are private improvements.

any change in their constitution. Two thirds of the Senate, two thirds of the House of Representatives, and fifty-eight legislative chambers in the States, must concur before a constitutional measure of the gravity of the County Franchise Bill of 1884 could become law. They are equally afraid of democratic finance; and the precautions taken to protect the citizens against the expenditure of popularly elected municipalities are very instructive. In considering the practice of betterment in the United States, it is necessary to remember that in most cases the municipality acts within a strict limit as to general expenditure; and when we come to the city of New York we shall find that the most minute regulations are devised for the protection of the individual, and that the Town Council is checked and supervised by the Supreme Court. In ten states of the Union the rates of county taxation are limited to a certain percentage of the valuation,

which is on capital value. In Arkansas and Alabama no town or city may levy a tax of more than $\frac{1}{2}$ per cent. on the valuation in any one year; in Texas the limit is $\frac{1}{4}$ per cent.; and in Missouri the rate in cities and towns having over 30,000 inhabitants may not exceed in the aggregate 1 per cent; for cities between 10,000 and 30,000 the limit is $\frac{6}{10}$ths per cent.; between 1000 and 10,000 it is $\frac{1}{2}$ per cent.; and under 1000, $\frac{1}{4}$ per cent.[1] With regard to municipal debts, in the state of New York no municipality of cities of over 100,000 population, or counties containing such cities, can in the aggregate be indebted, or contract debts, to an amount exceeding 10 per cent, of the valuation: and Maine, Illinois, Wisconsin, Iowa, W. Virginia, Missouri,

[1] In school districts the rate for school purposes must not exceed $\frac{4}{10}$ths per cent., but it may be increased by a majority vote of *the tax-paying voters at a special election.* The school rate is also limited in Wisconsin, North Carolina, Arkansas, Georgia, Texas, and S. Carolina.

Pennsylvania, Georgia, Colorado, Indiana, Oregon, S. Carolina, have imposed a limit, varying in its proportion to the valuation, upon the indebtedness of their municipal councils. In Missouri, California, and Georgia, no municipality can contract any debt, except a temporary debt incurred in anticipation of income, without the assent of two thirds of its voters at a special election; in W. Virginia without the assent of three-fifths of its voters at any election; and in Colorado without the assent of the majority of the *taxpayers*.[1] If we are to borrow our principles of municipal taxation from the United States, let us remember that the very first thing the Americans would do with the London County Council, would be to measure the length of chain which they thought safe, and with it to tie that august body firmly to its kennel.

[1] Stimson's *American Statute Law*, vol. I. pp. 88 to 93.

Just as in London the cost of a local improvement was sometimes divided in varying proportions between the vestry and the Metropolitan Board of Works, sometimes borne wholly by the vestry, and sometimes defrayed entirely by the Metropolitan Board; so in America the major part of the cost of a local work is sometimes collected by a general tax, sometimes assessed on estates benefited, sometimes the whole cost is levied on lands in the immediate vicinity of the work, and sometimes the whole cost is made a general charge. There must be special authority of law for the imposition of assessments for benefit. The ordinary grant to a municipal corporation of power to levy taxes for municipal purposes will not justify any other than the ordinary taxes. This special authority has been granted for the following public purposes: court-house and other public buildings; cost of land required to be taken in opening streets, cost of

grading, paving, planking, altering, widening, extending, or otherwise improving streets; sidewalks; parks; drains, sewers, etc.; water-pipes in streets; lighting streets with gas; fencing townships, and other special cases. After it has been determined how the cost shall be borne, as between the public and the estates benefited, a choice is commonly made of two methods of apportionment as between individuals:—(1) An assessment made by assessors or commissioners, appointed for the purpose under legislative authority, who are to view the estates, and levy the expense in proportion to the benefits which, in their opinion, the estates respectively will receive from the work proposed. (2) An assessment by some definite standard fixed upon by the legislature itself, which is applied to estates by a measurement of length, quantity, or value.

1. When benefits are assessed by assessors

or commissioners, the district within which the tax shall be laid, may be determined in one of two ways:—(*a*) The legislative authority, either of the state, or, when properly authorised, of the municipality, may determine over what territory the benefits are so far diffused as to render it proper to make all lands contribute to the cost; or, (*b*) the assessors or commissioners who, under the law, are to make the assessment, may have the whole matter submitted to their judgment, to assess such lands as in their opinion are specially benefited, and as ought therefore to contribute to the cost of the work. This, be it observed, has nothing to do with *the amount* assessed on each property as equivalent to the benefit; it has only to do with what properties shall be included in the assessment district; and, as we should put it, the betterment area may either be put in the bill, or left to the discretion of the officers appointed.

2. In many cases of street improvements, American legislatures have deemed it right to take the line of frontage as the most practicable and reasonable measure of probable benefits; and making that the standard, to apportion the benefits accordingly. For this reason in many cities both of North and South America you find the houses built back to a surprising depth from the side-walk, on which only a narrow frontage abuts. This method of apportionment has naturally excited many complaints. In Terry *v.* Hartford 39 Conn. 286, the opening of the street, for which a special assessment was made, left a narrow strip of land on each side belonging to Terry; so narrow as to be incapable of use, except in connection with the adjacent lands. It was nevertheless assessed heavily for benefits! The Victoria Hotel, in Northumberland Avenue, would be assessed at twenty times as much as the premises on either side;

though, if I understand this method rightly, it would be competent to the commissioners or assessors to assess one property at one dollar, and another property at two dollars the frontage foot.

3. There is a third system of betterment for which Dr. Cooley reserves all his displeasure. Instead of establishing a taxing district, and apportioning the cost throughout it by some standard of benefit, actual or presumptive, the case of each individual lot fronting on the improvement has been taken by itself, and that lot has been assessed with the cost of the improvement along its front; or perhaps with one half the cost, leaving the opposite lot to be assessed for the other half.[1] Of this method Dr. Cooley says:—"It is not legitimate taxation, because it is lacking in one of its indispensable elements. It considers each lot by itself, compelling each to

[1] A lot means in American a block of houses.

bear the burden of the improvement in front of it, without reference to any contribution to be made to the improvement by any other property, and it is consequently without any apportionment. . . . the fatal vice in the system is that it provides no taxing districts whatever. It is as arbritary in principle, and would sometimes be as unequal in operation, as a regulation that the town from which a state officer chanced to be chosen should pay his salary, or that that locality in which the standing army, or any portion of it, should be stationed for the time being should be charged with its support. As has been well said, to compel individuals to contribute money or property to the use of the public, without reference to any common ratio, and without requiring the sum paid by one piece or kind of property, or by one person, to bear any relation whatever to that paid by another, is to lay a forced contribution, not a tax, within the sense of those terms as applied to the exercise of powers by any en-

lightened or responsible government."[1] These are wise, and, coming from a champion of betterment, weighty words, and we shall see by and by that the legislative proposals of the London County Council are obnoxious to most of the above criticism, and that they are lacking in the indispensable elements of legitimate taxation.

Perhaps the clearest idea of the principles and the practice of betterment in the United States will be gained by setting out such portions of the New York City Consolidation Act of 1882 as relate to assessments for improvements.

Municipal improvements in New York are broadly divided into two classes :— (1) Sewers and paving works ; and (2) the opening of streets, avenues and public places.

1. A board of four assessors are appointed from time to time by the City Commissioners of Taxes, to make the estimates and assess-

[1] *Cooley on Taxation*, p. 647.

ments required by law for building sewers, paving, and repairing streets, &c., and all improvements other than street openings and public spaces. The City Comptroller, counsel to the Corporation, and Recorder, constitute a board of revision and correction, to which the assessment lists of the Board of Assessors must be submitted, and by which they must be confirmed.

"§ 868. All assessments hereafter imposed for local improvements in said city shall be made by the Board of Assessors on the following certificates, to wit :—

"(1) The head of the department charged with the execution of the work in question shall certify to the said Board of Assessors a total amount of all the expenses which shall have been actually incurred by the Mayor, Aldermen, and Commonalty on account thereof.

"(2) The Comptroller shall certify to the said Board of Assessors the amount of the

interest, at the legal rate, upon the several instalments advanced or payments made on account of such work, from the time of such payment or advance by the city to a day sixty days after the date of such certificate. Thereafter the said Board of Assessors shall assess upon the property benefited in the manner authorised by law, the aggregate amount of such certificate, or such proportion thereof as is authorised by law.

"§ 870. The assessors shall in no case assess any house, lot, improved or unimproved lands more than one-half the value of such house, lot, improved or unimproved land as valued by the assessors of the ward in which the same shall be situate.

"§ 871. It shall be the duty of the Board of Assessors when they have completed any assessment, to give notice to the owner or owners, and to the occupant or occupants of all houses and lots, and improved or unimproved

lands affected thereby, that they have completed the estimate and assessment; such notice shall be published daily in the *City Record*, and when authorised pursuant to the provisions of section 66 of this Act, *in at least two of the daily newspapers for ten days successively.* The notice shall describe the limits embraced by such assessment, and shall contain a request for all persons whose interests may be affected thereby and who may be opposed to the same, to present their objections in writing to the chairman of the assessors within thirty days from the date of such notice; and if, after re-examining such objections, the assessors shall not deem it proper to alter their assessment, or having altered it, there shall still be objections to the same, it shall be their duty to present such objections, with the assessment, to the Board of Revision and Correction.

"§ 878. It shall be lawful for the Mayor, Aldermen, and Commonalty, to cause common

sewers, drains, and vaults, to be made in any part of the City, and to order and direct the pitching and paving the streets thereof, and the cutting into any drain or sewer, and the altering and amending of any street, vault, sink, or common sewer, within the said city; and the raising, reducing, leveling, or fencing in any vacant or adjoining lots in the said city; and to cause estimates of the expense of conforming to such regulations to be made, and a just and equitable assessment thereof among the owners or occupants of all the houses and lots intended to be benefited thereby, in proportion, as nearly as may be, to the advantage which each shall be deemed to acquire; and the assessors, after having made such estimate and assessment, shall certify the same in writing, and being confirmed, it shall be binding and conclusive upon the owners and occupants of such lots so to be assessed, respectively, and shall be a lien of charge on such lots as aforesaid; and such

owners or occupants shall also, respectively, be liable, upon demand, to pay the sum at which such houses or lots, respectively, shall be so assessed, to such person as shall be appointed to receive the same ; and the money when paid shall be applied towards making, altering, amending, pitching, and paving such street, and making and repairing such vaults, drains, and sewers, as aforesaid, and raising, reducing, leveling, or fencing in such lots as aforesaid ; *provided, however, that nothing herein contained shall affect any agreement between any landlord and tenant respecting the payment of any such charges*, but they shall be answerable to each other in the same manner as if this title had never been made."

Two things should be observed in connection with the above sections ; firstly, that the assessments of the Board of Assessors, if objected to, are subject to revision and correction by the Comptroller, the counsel, and the Re-

corder of the City; secondly, that no special assessment is allowed to interfere with any agreement that landlord and tenant may make as to the payment of such charges.

2. But the opening new streets, avenues, and public places are the more important class of improvements—they constitute what we call permanent improvements—and consequently the machinery of assessment is more elaborate. Whenever the municipal council desires to open any street, avenue, square, or public place, for which it is necessary to take land or houses, application is made on behalf of the mayor to the Supreme Court to appoint "three discreet and disinterested persons" to act as commissioners of estimate and assessment. For twenty days previous to the appointment the municipal council advertises in the *City Record*, or in four newspapers, notice of the nature and extent of the improvement, and of the intention to apply for the

appointment of commissioners. When the application is heard, the mayor is entitled to nominate one commissioner, any persons interested in the property affected may nominate another, and the court appoints the third.

The commissioners (§ 970) "shall then proceed to and make a just and equitable estimate and assessment of the loss and damage, if any, over and above the benefit and advantage, or of the benefit and advantage, if any, over and above the loss and damage, as the case may be, to the respective owners, lessees, parties, and persons respectively, entitled unto or interested in the lands, tenements, hereditaments, and premises so required for the purpose, by and in consequence of opening such public square or place, street, avenue, or part or section of a street or avenue so to be opened, or by and in consequence of laying out and forming such public street or place, so to be

laid out and formed, or by and in consequence of extending, enlarging, or otherwise improving the street or public place so to be extended, enlarged, or otherwise improved, as the case may be, and a just and equitable estimate and assessment also of the value of the benefit and advantage of such said public square or place, street, avenue, etc., to the respective owners, lessees, parties and persons, respectively entitled unto or interested in the said respective lands, tenements, hereditaments, and premises not required for the purpose of opening, laying out, and forming, or extending, enlarging, or otherwise improving the same. Whenever the commissioners are appointed for the purpose of opening any street or avenue, or any part or section of any street or avenue, laid out by the Commissioners of Streets and Roads in the city of New York, or for the purpose of opening extending, enlarging, straightening, altering, or otherwise improving any street, or part of a

street, or public place, in that part of the said city not laid out into streets, avenues, squares, and public places by the commissioners aforesaid, the said Commissioners of Estimate and Assessment shall not, in making their estimate and assessment of the value of the benefit and advantage of the said operation, be confined to any definite limits, but shall be and hereby are authorised to extend such estimate and assessment to any and all such lands, tenements, hereditaments, and premises as they may deem to be benefited by the said operation and which they may judge expedient to include in the report in the premises." In the part of the city which lies to the north of Fifty-ninth Street, and in those cases where no buildings for which compensation can lawfully be made shall be taken, the betterment area is limited, in the first instance to half the distance of the next street or avenue thereto, and in the second instance to the ends of the street or

avenue sought to be opened: from which I infer that this limitation applies to new and outlying districts. So much for street improvements. With regard to the opening of public squares or places, by section 973, "the said commissioners of estimate and assessment shall not in making their estimate and assessment of the value of the benefit and advantage of such public square or place, be confined to the lands, tenements, hereditaments, and premises fronting thereon and lying within half the distance of the next street or avenue thereto from the same on each side thereof, but on the contrary thereof, after having made their estimate and assessment of the loss and damage over and above the benefit and advantage, and of the benefit and advantage over and above the loss and damage and of the equality of the benefit and advantage to the loss and damage as the case may be, to the respective owners, lessees, parties and persons, respectively,

entitled unto or interested in the lands, tenements, hereditaments, and premises so required for the purpose by and in consequence of opening such public square or place, the said commissioners shall proceed to make a just and equitable estimate and assessment of the value of the benefit and advantage of such public square or place so to be opened to the respective owners, lessees, parties and persons respectively entitled unto or interested in the lands, tenements, hereditaments, and premises lying out of the limits of such public square or place, and which the said commissioners may deem to be benefited by such public square or place in respect of the respective estates and interests of such owners, lessees, parties, and persons, respectively so entitled to or interested in such said lands, tenements, hereditaments, and premises so deemed benefited thereby, and the said commissioners shall and may extend their said assessments to any such lands,

tenements, hereditaments and premises as they may deem to be benefited by the opening of the said public square or place, notwithstanding such said lands, tenements, hereditaments, and premises may be situated without and beyond half the distance of the next street or avenue thereto from such said public square or place on any side thereof.

"§ 974. The commissioners appointed in pursuance of the title shall complete said proceeding on their part within four months from the time of their appointment, unless further time shall be allowed by the Supreme Court."

With regard to buildings or improvements placed on the land before the filing of the plans, and buildings to be removed, the commissioners may at their discretion, assess a third of the cost on the municipality. If the regulation, elevation, or depression of any street, shall, in the judgment of the com-

missioners, injure any building or buildings not required to be taken for the improvement, they shall estimate and assess the loss and damage which will accrue "to the respective owners, lessees, parties, and persons, respectively," and include the sums of recompense in their report to the court (§ 978). In no case shall the assessment for benefit exceed half the value of the house or property, as valued by the Tax Commissioners (§ 981). Having regard to the machinery proposed by the London County Council for the making a provisional award and its confirmation by an arbitrator, it is important to contrast the elaborate precautions which are taken by the Americans to protect individual rights of property, when the report of the Commissioners of Estimate and Assessment has to be presented to the Supreme Court for confirmation.

"§ 984. The said commissioners shall deposit with the Commissioner of Public Works

an abstract of their estimate and assessment at least forty days before their report shall be presented to said court for confirmation. They shall also publish a notice for thirty days in the *City Record*, and when authorised pursuant to section sixty-six of this Act, in two of the daily newspapers published in said city, stating their intention to present their report for confirmation to the said court, at a time and place to be specified in said notice, and that all persons interested in such proceeding, or in any of the lands affected thereby, having objections thereto, shall file the same in writing with the said commissioners within thirty days after the first publication of said notice, and that the said commissioners will hear such objections within the ten week-days next after the expiration of said thirty days. Similar notice, for at least twenty days, shall be given of such supplemental or amended report."

"§ 986. Any person or persons whose rights may be affected by the said estimate and assessment, and who shall object to the same or any part thereof, may, within thirty days after the first publication of the said notice, state his, her, or their objections to the same in writing to the said commissioners; which statements shall not be received by the said commissioners unless verified by his, her, or their affidavits, or the affidavits of other persons, or both; and it shall be the duty of the said commissioners in all cases to transmit to the said court, together with their said report, all the written statements and affidavits which may have been served upon them within the time aforesaid. And at the expiration of the said thirty days, it shall be the duty of the said commissioners to give at least ten days' notice in manner aforesaid, of a time and place when and where any person or persons, who may consider

themselves aggrieved by such estimate or assessment, shall be heard in opposition to the same; and the said commissioners shall have power to adjourn from time to time, within the space of ten judicial days, until all such person or persons are fully heard."

"§ 988. After considering the objections, if any, and making any correction or alteration of their estimate or assessment, which said commissioners, or any two of them, shall find to be just and proper, the said commissioners, or any two of them, shall present their report to the court at the time and place specified in said notice."

"§ 990. The application for the confirmation of the report shall be made to the Supreme Court at a term thereof held in the city of New York. Upon the coming in of the said report signed by the said commissioners, or any two of them, and upon the hearing of the application for the confirmation thereof, if persons

who appear by the said report to be interested, either by assessment for benefit or reward for damages, to the amount of a majority in amount of the whole of the assessments and awards, shall appear and object to further proceedings upon the said report, the court shall order the same to be discontinued, and the same shall thenceforth be discontinued; otherwise the said courts shall, by rule or order, after hearing any matter which may be alleged against the same, either confirm the said report or refer the same to the same commissioners for revisal and correction, or to new commissioners, to be appointed by the said court to reconsider the subject-matter thereof, and the said commissioners to whom the said report shall be referred shall return the same report corrected and revised, or a new report to be made by them in the premises, to the said court without unnecessary delay; and the same, on being so returned, shall be

confirmed or again referred by the said court in manner aforesaid, as right and justice shall require, and so from time to time until a report shall be made or returned in the premises, which the said court shall confirm; and such report, when so confirmed by the said court, shall be final and conclusive." [1]

It is impossible not to be struck with the tenderness for the rights of property, and the multiplication of safeguards against municipal oppression, enforced by the law of the most democratic country in the world. It is equally impossible not to compare this caution and scrupulosity with the summary and despotic manner in which the London County Council proposes to deal with the property of those, who, or whose predecessors, have been guilty of the crime of investing their money in land or houses. Let me recapitulate the steps which are necessary in New York before any

[1] Laws of New York, 1882, chap. 410.

one can have a betterment charge imposed upon him for a street or open space improvement. After twenty days' notice by advertisement, the Supreme Court appoints three commissioners, one to represent the city council, one to represent the owners and occupiers, and one to represent the court. The business of estimate and assessment is not allowed to hang over the property for five or six years, but must be concluded within four months. An abstract of the report must next be deposited with the Commissioner of Public Works forty days before its presentation to the court; and notice of the time and place for presenting the report to the court, and inviting all persons interested to deposit their objections to the report in writing with the commissioners, must be advertised for thirty days in two daily newspapers and the *City Record.* After thirty days' advertisement, another ten days' notice must be given of the time and

place when and where the commissioners will hear objectors. Then comes the hearing before the three commissioners, which may be adjourned from time to time until all parties are fully heard, and then there is the final application to the Supreme Court for confirmation. At this point the whole scheme can be quashed, if a majority in amount of the whole of the assessments and awards appear and object to further proceedings upon the report. Otherwise, there is a full hearing by the Supreme Court before the award, or report, is confirmed and becomes binding.

The above Act may be taken as a very fair specimen of the law of betterment in the United States, for when a state has no statute upon a question it follows the common law or the statute law of that neighbouring or older state, to which it is historically related.[1]

[1] Stimson's *American Statute Law*, vol. I.

CHAPTER II.

ADOPTION OF BETTERMENT BY THE LONDON COUNTY COUNCIL.

BEFORE proceeding to discuss the relation of betterment to the general system of taxation, it will be necessary to lay before the reader the London County Council edition of the American system; which will be useful in another way, as these private bills are not easily procurable by the public, and there is consequently a profound ignorance of what the Council really proposes. It may not be amiss to remind the public that the London County Council, having persuaded the Government to take away from it a revenue of half-a-

million a year drawn from the coal and wine dues, has an oath, though not in heaven, that until it is allowed to take that half-million out of the pockets of a small and politically obnoxious class, no metropolitan improvements shall be carried out. Twice has the County Council asked Parliament to confer upon it this special taxing authority, in the Strand Improvement Bill in 1890 and in the General Powers Bill of 1892 with reference to Cromwell Road Bridge: and twice has Parliament refused its request. The change of Government has naturally excited hopes, and for the third time the London County Council approaches the legislature, but with a very much enlarged programme. The London Improvements Bill and the London Owners' Improvement Rate or Charge Bill are complementary of one another, and must be taken together as constituting the policy of the Council. By clause 48 of the London Improvements Act, 1893, the

Council asks Parliament for authority to spend on capital account for the purposes of the following improvements, including the purchase of lands, the following sums :—

For the new central street and improvements connected therewith	£3,870,000
For the approach to Tower Bridge	436,000
For the widening of Wood Lane, Hammersmith	48,000
For the Vauxhall Bridge ...	484,000
For the Rotherhithe and Ratcliff Ferry	443,000
For the widening approach (south side) to Woolwich Ferry	3,000
For the cost of sites for housing displaced persons	45,000
	£5,329,000

Betterment is provided for in clause 45, which had better be set out in full.

"45. And whereas the Improvements (other than the said widening of Wood Lane of which one-half the net cost is to be defrayed by the said Vestry) will be effected out of public funds charged over the whole county and will or may increase in value or benefit lands in the neighbourhood of the Improvements which will not be acquired for the purpose thereof and it is reasonable that provision should be made under which in respect or in consideration of such increased value or benefit a charge should be placed on such lands. Therefore the following provisions shall have effect, viz. :—

"(2) All lands within the limits marked on the deposited Plans as "Limits of land to be acquired" or "Limits of Deviation" (as the case may be) in relation to the said Improve-

ments respectively but which shall not be purchased and taken by the Council under the powers of this Act shall be liable to have an Improvement Charge placed on such lands or some of them (in accordance with the provisions hereinafter set forth) in respect or in consideration of any increased value or benefit which such lands may respectively derive from the said improvements by this Act authorised ;

"(3) The Council shall as soon as conveniently may be (but not later than seven years after the completion of each of the Improvements) cause to be framed a Provisional Award describing such of the lands situate within the said limits as in the opinion of the Council ought to bear and pay the said Improvement Charge and the Council shall in such Provisional Award state and specify :

"(*a*) The names of the owners lessees and occupiers of the lands described in the said

Provisional Award respectively so far as they can be ascertained;

"(*b*) The apportioned amounts in capital sums and by way of annual charge which in the opinion of the Council ought to be charged upon such lands respectively;

"The amount to be proposed in the Provisional Award as the capital sum to be charged on any lands under the provisions of this Section shall be one-half of the amount which in the opinion of the Council will be the enhanced value or benefit derived or to be derived by the said lands from the Improvements and the amount to be proposed in the Provisional Award as the annual charge upon the lands charged shall be an annual sum equal to three per centum per annum on the amount of the capital charge in respect of the same lands;

"(4) The Provisional Award shall be submitted to and considered by the Council at a

meeting or meetings and the Council may by resolution approve the same either with or without modification or addition as they think fit ;

" (5) The resolution approving a Provisional Award shall be published once in each of two successive weeks in two or more London daily newspapers and copies of such resolution shall be publicly posted on the site of the new streets and within seven days of the date of the first publication of the resolution copies thereof shall also be served on the owners lessees (if any) and occupiers of the lands described in the Provisional Award. Provided that in case the Council are unable to ascertain the name or address of any owner or lessee on whom a copy is to be served it shall be sufficient to serve a copy of the resolution either by delivering the same to the occupier of the lands with a notice that the same is to be given to each immediate or superior landlord or owner or by affixing a copy of the

resolution to some conspicuous and convenient place on or near the lands;

"(6) From and after the date of the first publication of the resolution and until the expiration of one month from the date of the last publication thereof the Provisional Award or copies thereof certified by the Clerk or some other officer of the Council shall be kept deposited at the office of the Council and shall be open to inspection at all reasonable times by any person interested;

"(7) During the said month any owner or lessee of any lands described in the Provisional Award or the occupier thereof for the time being may by written notice served on the Council object to the Provisional Award on any of the grounds following;—

"(i.) That any lands included in the Provisional Award or that any owner lessee or occupier ought to be excluded;

"(ii.) That any lands omitted from the Pro-

visional Award or that any owner lessee or occupier thereof ought to be inserted;

" (iii.) That the Provisional Award is incorrect in respect of some matter of fact (to be specified in the objection) or in respect of the amount of the Charge charged upon the lands;

" (iv.) That the Charge in respect of any lands ought to be payable for the time being either wholly or in part by some person other than the person named in that behalf in the Award or by some person interested for the time being in the same otherwise than as in the Award mentioned;

" (8) If at the expiration of the said period of one month no notice of objection shall have been served on the Council then the Council may publish notice to that effect in the *London Gazette* and as from the date of such notice such Provisional Award shall become a Final Award;

" (9) If any such notice of objection be served

on the Council within the said period of one month then the Council may and shall apply to the Local Government Board to appoint an Arbitrator for the purposes of this Section and the Local Government Board shall appoint an Arbitrator accordingly and as often as any such Arbitrator may die or resign or become incapable of acting (previous to the making of a Final Award as hereafter provided) the Council may and shall in like manner apply to the said Board and the said Board shall from time to time appoint another Arbitrator in his stead and every such Arbitrator shall be entitled to such fees or remuneration as may be fixed by the Local Government Board ;

"(10) (i.) The Council at any time after the appointment of the Arbitrator may apply to the Arbitrator to appoint a time for determining the matter of all objections made as in this Act mentioned and for making a Final Award and shall publish a notice of the time and place

appointed and copies of such notice shall be served upon the objectors and also upon the owners and lessees of any lands inserted or which it may be proposed to insert in the Award and at the time and place so appointed the Arbitrator may proceed to hear and determine the matter of all such objections. The Arbitrator may amend the resolution and Provisional Award or either of them on the application either of any objector or of the Council. Provided that if he insert the name of any person in the Award which was not included in the original Award such notice as the Arbitrator may think sufficient shall be given to such person to enable him to object to such insertion;

"(ii.) The Arbitrator may also if he think fit adjourn the hearing and direct any further notices to be given;

"(iii.) No objection to any Resolution or Award which could be made under this Act

shall be otherwise made or allowed in any Court proceeding or manner whatsoever;

"(iv.) The costs charges and expenses of any proceedings and of the Council and all other parties to any proceedings before the Arbitrator shall be in the discretion of the Arbitrator who shall have power to award by whom and in what proportions such costs charges and expenses including any part of the fees or remuneration of the Arbitrator shall be borne;

"(v.) The Arbitrator may if he think fit direct that the whole or any part of such costs charges and expenses ordered to be paid by an objector or objectors shall be paid in the first instance by the Council and a sum in respect thereof added to the Capital and Annual Charge apportioned on the lands in respect of which the objection was made or on the lands of such objectors in such proportions as may appear just;

"(11) The Arbitrator may at any time state a special case for the opinion of the

High Court or any Division thereof with reference to any question of law arising in the course of any proceedings relating to any objections ;

"(12) The Council may from time to time if they think just by resolution amend the Provisional Award so as to include in the Provisional Award as amended any lands not included in the original Award and may fix and apportion the sums to be charged upon any such lands but any such Resolution shall be published and copies thereof shall be served and copies of the amended Provisional Award deposited for public inspection in the manner hereinbefore prescribed with respect to the original Resolution and Provisional Award and objections may be made to the Resolution and amended Provisional Award in like manner and if made shall be dealt with and determined in like manner as objections to the original Provisional Award ;

"(13) When and so soon as the Provisional Award and any amendments thereof and all objections thereto respectively shall have been disposed of as by this Act directed the Arbitrator shall issue a Final Award under his hand which shall be conclusive for all purposes ;

"A copy of the Final Award shall be published once in the *London Gazette* and notice of such Final Award shall be served upon the owners or reputed owners lessees or reputed lessees and occupiers of the lands affected thereby ;

"(14) If no objection as hereinbefore provided be made to the Provisional Award the amount defined by the Provisional Award or the amended Provisional Award (and if a Final Award be made as hereinbefore provided then the amount defined by the Final Award) as the Charge in respect of each property shall be a charge and encumbrance thereon and the Council shall cause the same to be registered

as a land charge under 'The Land Charges Registration and Searches Act, 1888';

"(15) The Annual Charge in respect of any lands as fixed by the Final Award shall (subject to the following provision) begin to be payable on the first day of April or October as the case may be next ensuing after the date of the Final Award and shall be payable thereafter half-yearly until redeemed and satisfied.

"Provided as follows: Where the lands charged shall have been in the possession of the freeholder at the passing of this Act or at any time between the passing of this Act and the date of the Final Award the charge shall be payable by the freeholder and where the lands charged shall not have been in the possession of the freeholder at the passing of this Act or before the date of the Final Award the Council in framing the Provisional Award or the Arbitrator in making the Final Award may take into consideration all the circumstances of the case

and in particular may consider the several interests in such lands and at the time at which they severally expire and may make the commencement of such Annual Charge dependent on the expiration of any term of years or other period or on the happening of any event as they shall deem fair and equitable and may apportion the incidence of such Annual Charge as between the freehold and any other estate or interest in the lands during the period of any existing term of years for which the same is held at the date of the Final Award.

"(16) The Charge due in respect of any property shall be payable to the Council on demand and may be collected on behalf of the Council by such persons as they may appoint for that purpose;

"Where any lands in respect of which a Charge is payable are occupied by any person the Council may collect the annual payments due in respect of the Charge from such person.

But if he be not the person for the time being liable to the payment of the Annual Charge or any part thereof then he may deduct from any rent payable by him the Annual Charge or any part thereof payable by any other person and any person receiving such rent (if he be not the person liable to pay the Charge or any part thereof) may in like manner deduct from any rent payable by him the Charge or such part thereof as is payable by any other person so that the proper deduction may be ultimately made from rent paid to the person or persons by whom the Charge is payable ;

" In case of default being made in any payment due to the Council in respect of the Annual Charge the amount thereof may be recovered in any Court of summary jurisdiction and in addition the Council may have and exercise such remedies for recovering the same as are conferred by the ' The Conveyancing

and Law of Property Act 1881' with regard to sums payable by way of Rent Charge;

"(17) Any owner lessee or occupier of any lands subject to the Charge or any other person interested therein may from time to time redeem the same by Agreement with the Council and shall be entitled from time to time to pay off the Charge upon any lands on giving notice in writing to the Council and when and so soon as the capital sum charged on any lands is paid off with any arrears of Annual Charge due in respect thereof then the Charge shall be deemed to be satisfied and shall be no longer payable in respect of the said lands and the Council shall give a certificate under their Common Seal that the said Charge is redeemed and satisfied which shall be sufficient evidence thereof;

"(18) 'The Arbitration Act 1889' shall subject to the provisions of this Section apply to the Arbitrator and procedure before him

except that the Final Award shall be conclusive and not subject to appeal or review."

This, it will be seen, is a proposal to take away half of what the Council or an Arbitrator chooses to say is the additional value imparted to a man's property by a new street. But this is only one side of the shield: the other side is presented in the "London Owners' Improvement Rate Act, 1893," by which it is proposed to make the owners of houses and land all over the metropolis pay half of the sum of £4,748,550 (the estimated cost of the Holborn, Tower Bridge, and Rotherhithe improvements), and any sum the Council may require in future "to pay the principal and interest on their loans, *both past and future*," for any permanent improvements and works of public utility. Half the cost of the works given above is £2,374,275. Mr. Charles Harrison, in his evidence before the Town

Holdings Committee, stated that the annual sum necessary to pay principal and interest on the loans contracted for permanent improvements was £1,670,000.[1] So that the London Owners' Improvement Rate Bill proposes to lay upon the owners of houses and land in London an annual charge of, in round figures, £1,753,099, taking 3½% on £2,374,275 and adding it to £1,670,000. This is pretty well for a beginning; and this is how it is to be done.

"3. There shall be leviable in respect of hereditaments throughout the County a rate to be called 'The County Improvements Rate,' or such other name as the Council may determine the proceeds whereof shall be applicable by the Council as follows:

[1] *Town Holdings Report*, p. xv. (Harrison, 3421). It is true Mr. Harrison's arithmetic was found to be fanciful, and his evidence was not accepted by the Committee. But he was the witness of the L.C.C.

"(1) In providing one-half of the sums required in each year for redemption of stock or repayment or replacement of money borrowed and expended on capital account for the purposes of the following Improvements if the same be authorised by Parliament viz. :

"(A) The New Central Street from Southampton Row to the Strand with the Subsidiary Streets and Works ;

"(B) The New Approach to the Tower Bridge in the parishes of Bermondsey and St. John Horsleydown ; and

"(C) The Ferry between Rotherhithe and Ratcliff

described in and proposed to be authorised by the London Improvements Bill now pending in Parliament ;

"(2) In payment of the sum required in each year for payment of interest and charges in respect of one-half of the money so borrowed and expended ;

"(3) In providing the sums required in each

year for redemption of stock or repayment or replacement of money borrowed for and expended on any permanent improvements and works of public utility effected or to be effected by the Council and charged to capital account and in payment of the sum required in each year for payment of interest and charges in respect of money so borrowed and expended ;

"The expression 'permanent improvements' in this section means any works of which the Council have power to spread the cost and of which they resolve to spread the cost over a period of at least fifty years."

The Council cherishes the hope that, for the sake of catching votes in London, Sir William Harcourt may be induced to act as its cat's-paw, which I much doubt, for Sir William Harcourt, whatever he may be in opposition, has always discovered in office some of the truest and highest qualities of a

statesman. However, this is what the Council hopes :

"5. If and whenever any agreement is arrived at between the Treasury and the Council with respect to the collection of the County Improvements Rate by this Act authorised along with the Property Tax under Schedule (A) of the Act 5 and 6 Victoria cap. 35 the following provisions shall have effect :

"1. The Council may fix and determine in respect of each financial year the amount of the rate in the pound on the gross value of lands tenements hereditaments and heritages in the County which in their judgment will be necessary to produce the amount required to be levied in respect of that year under the powers of this Act as the County Improvements Rate and such rate shall be charged upon the value at which such lands tenements hereditaments or heritages within the County are assessed

for the payment of Property Tax under Schedule 'A' of the Act 5 and 6 Vic. cap. 35 but shall not exceed the rate of fourpence in the pound upon such value. And such rate shall be demanded and collected along with the Property Tax payable under the said Schedule 'A.'"

Should, however, Sir William Harcourt decline the honour of pulling the chestnuts out of the fire for Messrs. Harrison and Costelloe, the improvement rate of 4*d.* in the pound is to be collected along with the other parish rates, and the occupier is to pay the rate in the first instance, and then deduct it from the rent he pays his superior landlord, who is to deduct proportionately from his leasehold ground-rent, and the leasehold annuitant is to deduct proportionately from his freehold ground-rent, just as the property tax under schedule A is now deducted. The effect of this will be to throw the

main burthen of the improvement rate upon the receiver of the rack-rent, not upon the reversionary interest, upon the owner of the house, not upon the owner of the land. The ordinary division of interests in the better class of London houses is something like this. Rack-rent, £300; leasehold ground-rent, £35; freehold ground-rent, £10. The occupier will deduct 300 fourpences from his rack-rent; the owner of the house will deduct 35 fourpences from his leasehold ground-rent; and the owner of the leasehold ground-rent will deduct 10 fourpences from his freehold ground-rent. It is to be hoped that the owners of houses, who are a much larger and more powerful voting class than the owners of land, will appreciate this point. In the case of estates where the freeholder lets direct to his tenants, as, for instance, on the Deptford estate, and as is beginning to be done on the Westminster and Portman estates, as the leases fall in, the ground landlord will be heavily hit.

In defiance of the well-established legal principle that the basis of rating is profitable occupation, it is proposed in clause 7 to charge the improvement rate upon empty houses and vacant land.

"7. The Improvement Rate shall be assessed and payable in respect of unoccupied houses and buildings and of vacant land including land on which there are uncompleted buildings as well as in respect of houses and buildings which are occupied and of other land and shall so long as the house building or land upon which the rate is charged remains unoccupied or vacant be payable by the owner thereof on demand. If and so far as at the commencement of a new tenancy or occupation of any house or building or land any arrears of the Improvements Rate remain due in respect thereof then such arrears shall be payable on demand by the first tenant or occupier or any succeeding tenant or occu-

pier thereof and any tenant or occupier who shall have paid such sum may deduct the amount paid by him in respect of such rate from and out of any rent payable by him in respect of the house building or land. A proper receipt for the payment by such tenant or occupier of any arrears of Improvements Rate payable in respect of the house building or land shall be and operate as a release and discharge of the tenant or occupier from such part of any rent payable by him as shall be equal to the amount paid by him in respect of such rate.

"8. (1) The Overseers and Assessment Committees acting under the Valuation (Metropolis) Act 1869 shall in making out the next Valuation List or Supplemental Valuation List after the passing of this Act include or add and assess all unoccupied houses and buildings and vacant land including land on which there are uncompleted buildings so far as such houses buildings and land would not but for the provi-

sions of this Act be included in such lists and shall cause the totals of the gross and rateable values of such buildings and lands to be ascertained and included in or added to the Valuation Lists to be made under the said Act after the passing of this Act;

"(2) The totals of the gross values of such buildings and land shall for the purposes of this Act be added by the Council to the totals of the Valuation Lists printed in accordance with section 17 of the Valuation (Metropolis) Act 1869."

"12. The County Improvements Rate shall be a charge and incumbrance on the freehold of the hereditaments in respect of which it is made and shall not be a rate tax charge imposition assessment or outgoing payable by a tenant or occupier within the meaning of any existing contract to pay rates taxes charges impositions assessments or outgoings in respect of the hereditaments the subject of such contract and any deed agreement covenant or contract made

after the passing of this Act purporting to deprive or which would have the effect of depriving any tenant or other person of his right under this Act to deduct any County Improvements Rate paid by him from the amount of his rent or purporting to provide for the cancellation or alteration of the terms of any tenancy in the event of such a rate being imposed as authorised by this Act or tending otherwise to defeat the intention of this Act shall so far as it purports to have or might have that effect be void."

These two bills are the new method of taxation, a comparison of which with the American system suggests to me the following observations:—

1. The owners' rate and the betterment charge are clearly lacking in the indispensable elements of legitimate taxation, a taxing district and a common ratio. The owners' rate bill provides no area of assessment: the whole

metropolis is to be laid under contribution; and the owner of the Gunter estate in West Kensington will be taxed for the Rotherhithe ferry. There is no standard for the measurement of benefits, but the betterment charge is to be as much or as little as the County Council or the Arbitrator fancies.

2. Whereas in America landlord and tenant are expressly left free to make any agreement for the payment of the special assessment, they are expressly forbidden by these bills to make any contracts with regard to the payment of the owners' rate or the betterment charge.

3. By a dangerous confusion of administrative and judicial powers, the County Council makes itself judge in its own cause. In New York the City Council applies to the court to appoint commissioners to assess the benefits: the commissioners hear the objections in the first instance; and finally the matter comes before the Supreme Court. From first to last the City Council is exactly on the same foot-

ing as the other interested parties; it is treated as a plaintiff in a suit; and has nothing to do with any decision. But here it is the London County Council that itself by its officers makes the assessment, in which it is interested. The next step is even more characteristic. Instead of something in the nature of a judicial hearing, the Council is to debate its own provisional award in full meeting. If objections are lodged in the course of the following month, the Council is to apply for the appointment of an arbitrator, from whom there is no appeal. This is a very objectionable procedure. The Local Government Board is to appoint the arbitrator, but upon the application of the County Council.[1] The arbitrator will therefore be in a sense the nominee of the Council, and he has not only the final decision of the amount of betterment, but absolute discretion

[1] The three Commissioners of Estimate in New York represent: 1. The Council; 2. The parties assessed; 3. The Supreme Court.

as to costs. The office of arbitrator will be a lucrative one, and an arbitrator will know very well that if he takes any very marked liberties with the provisional award, or gives costs against the Council, he is not likely to be nominated a second time for the business. Why indeed should he be the friend of the defendant landlord, on whom the charge is to be imposed? The plaintiff Council has all the rates of London in its pocket, and is the dispenser of many good things to those who will bow the knee. There is an utter absence of anything like judicial procedure in dealing with property, which is perfectly repugnant to what used to be the universal practice in England.

4. In New York the Commissioners of Estimate and Assessment must finish their business and make their report within four months. By subsection 3 of section 45 "the Council shall as soon as conveniently may be (but not later than seven years *after the com-*

pletion of each of the improvements) cause to be framed a provisional award," &c. As it is provided in section 25 that some of the improvements may take seven years and others five years to complete, the provisional award might be fourteen years before it appeared. Let anyone with any experience of house property reflect upon the meaning of this. Suppose the works take four or five years to complete, and that the award is not made for one or two years after, a computation well within the mark. For five or six years the cloud of the award is to hang over the property. Who will be able to deal with it? The owner will not be able to sell or let the property, so long as the award is suspended over it, for no one will buy or hire until he knows what the betterment charge is going to be. Anything more prejudicial to property, and consequently offering a greater temptation to corruption and bribery and favouritism, it is impossible to imagine.

CHAPTER III.

THE PLACE OF BETTERMENT IN THE GENERAL SYSTEM OF TAXATION.

WHAT is the true place of betterment in reference to the general principles of taxation? This is a question which occasions Dr. Cooley great searchings of heart; and being a candid, as well as a learned, author, and fully appreciating the importance of answering it satisfactorily, he is at great pains, in his chapter on "Taxation by Special Assessment"[1] to lay his foundations deep in public equity. He admits that special assessments are "a peculiar species of taxation, standing apart from the general bur-

[1] *Cooley on Taxation*, ch. xx.

dens imposed for state and municipal purposes, and governed by principles that do not apply universally." The conundrum "When is a tax not a tax?" may best be answered by some citations from American judgments on betterment. "A tax," said C. J. George (Macon *v.* Patty 57 Miss. 378), "is levied on the whole state or a known political subdivision, as a county or town. A local assessment is levied on property situated in a district created for the express purpose of the levy, and possessing no other function, or even existence, than to be the thing on which the levy is made. . . . It is like a tax in that it must be levied for a public purpose, and must be apportioned by some reasonable rule among those upon whose property it is levied. It is unlike a tax in that the proceeds of the assessment must be expended in an improvement from which a benefit clearly exceptive and plainly perceived must inure to the property upon which it is imposed." In Bridgeport

v. N. Y. and N. H. R. Co. 36 Conn. 255, Butler J. said, "It is doubtless true that such an assessment of benefits is an exercise of the taxing power, and in a general sense a tax. . . But it is never spoken of in the charters of cities and boroughs, or in the general law, or in popular intercourse, as a tax. And although this strictly in a general sense is a tax, it is one of a peculiar nature. It is a local assessment imposed occasionally as required upon a limited class of persons interested in a local improvement, and who are assumed to be benefited by the improvement to the extent of the assessment, and it is imposed and collected as an equivalent for that benefit, and to pay for the improvement. It has consequently never been regarded as a tax, or termed such in legislative proceedings, in our public or private laws, or in popular intercourse." That this view is not held by all Amercan lawyers is proved by the fact that in the States ofAlabama, Arkansas, Colorado, and Minnesota,

special assessments for benefit have been held to be illegal as contravening constitutional provisions that all taxation shall be equal, uniform, and by value; while in Illinois the constitutionality of the tax would seem to be still doubtful. Nor must it be supposed that, where the tax has been decided to be constitutional, legal opinion is agreed as to its justice. Church C. J. (in Guest *v.* Brooklyn 69 N. Y. 506) condemns the whole system as "a species of despotism that ought not to be perpetuated under a government which claims to protect property equally with life and liberty. Besides its manifest injustice it deprives the citizen practically of the principal protection—aside from constitutional restraints—afforded in a free country against unjust taxation: the responsibility of the representative for his acts to his constituents."[1]

[1] These cases are all quoted in the text or footnotes of ch. xx. of *Cooley on Taxation.*

It is therefore clear that in special assessment for benefit we have a fiscal anomaly of a very peculiar kind. It is a tax, and it is not a tax; it is unconstitutional in one state, and constitutional in another; one judge speaks of its intrinsic justice; another refers to it as a species of despotism. All agree in calling it a levy, which requires special legislative authority. One thing is indisputable; that by a special assessment for benefit, or an improvement charge, as the London County Council calls it, property, *i.e.* money, is taken and appropriated to the public use. Now there are only two methods by which property is taken from individuals and appropriated to the public use in civilised societies, by taxation, and by what American lawyers call the right of eminent domain, which is the right reserved by every Government to acquire private property for public purposes by paying the owner full compensation, and which English

lawyers have embodied in a series of Acts well enough known as the Lands Clauses Consolidation Acts. The distinction between taxation and the right of eminent domain is so clearly put by J. Ruggles (in People *v.* Brooklyn 4 N. Y. 419) that I cannot resist yet another citation. "Taxation exacts money or services from individuals as and for their respective shares of contribution to any public burden. Private property taken for any public use, by right of eminent domain, is taken, not as the owner's share of contribution to a public burden, but as so much beyond his share. Special compensation is therefore to be made in the latter case, because the Government is a debtor for the property so taken; but not in the former, because the payment of taxes is a duty, and creates no obligation to repay otherwise than in the proper application of the tax. Taxation operates upon a community, or upon

a class of persons in a community, and by some rule of apportionment. The exercise of the right of eminent domain operates upon an individual, and without reference to the amount or value exacted from any other individual or class of individuals." Is a special assessment for benefit, then, an exercise of the right of eminent domain? It certainly operates upon an individual and not upon a community, and it is without reference to the amount or value exacted from any other individual, because in each case it is the special benefit derived by the particular property. But it is just as certainly not an exercise of the right of eminent domain, because it is without special compensation to the individual on whom the charge is laid, he only enjoying in common with his neighbours the improvement, which is presumed to be his compensation. The American judges were in a great difficulty. They were far too

good lawyers not to see that a special assessment for benefit could not be ascribed to the right of eminent domain: they were equally certain that it could not be regarded as a tax (*v. supra*), because it did not operate upon a community, and was without rule of apportionment. But they had to give effect to the will of the legislatures: they were therefore reduced, as we have seen, to the somewhat pitiful expedient of explaining that it was not a tax, but an assessment for benefits, or if a tax, one of a peculiar nature.

The truth is that a betterment charge is a tax, inasmuch as it is imposed by a public body, acting under legislative authority, and collected with all the irresistible machinery of government. But inasmuch as it is lacking in the indispensable elements of legitimate taxation, it is not a tax, but a forced levy.

The desirable elements in a system of taxation are now established by the experience

of mankind; and have been embodied by Adam Smith in the second chapter of the fifth book of *Wealth of Nations* in four celebrated maxims or principles, viz., 1. Uniformity. 2. Certainty. 3. Convenience. 4. Cheapness of collection. It will be found upon examination that the improvement charge proposed by the London County Council violates every one of these canons of taxation.

1. "The subjects of every state ought to contribute to the support of the government," says Adam Smith, "as nearly as possible in proportion to their respective abilities: that is in proportion to the revenue which they respectively enjoy under the protection of the state. In the observation or neglect of this maxim consists what is called the equality or inequality of taxation." In other words, the only standard by which taxes can be apportioned between individuals is the standard of value; for there is no other

measure of their respective abilities to pay except the value, capital or annual, of their property. In the United States they tax capital value, in England we tax annual value. There is a good deal to be said for both systems, though the taxation of annual values seems to me to possess two advantages over the taxation of capital values; first, it taxes usufruct, enjoyment, rather than accumulation; and secondly, annual value is a matter of fact, whereas capital value must always be, to a certain extent, matter of speculation. But betterment is a tax neither on capital nor on annual value; that is to say, the amount of the charge has nothing to do with the capital or annual value of the property on which it is laid. Benefit, not value, is the standard of apportionment: not the rental which the owner receives for a house is to be the measure of his ability to pay the tax but its geographical position. For instance, a house fronting the

new street and let for a long term at £300 a year might be taxed twice as much as a house round the corner let at £600 a year. The charge is to be proportioned not to what the property is actually worth, but to what the surveyor of the London County Council, or an arbitrator, says it may be worth in years to come. Nay, worse than this, when once the amount of benefit conferred upon a particular property by a local improvement has been assessed by some process of valuation, which Mr. Driver and other eminent London surveyors have declared (in their evidence before the committee on the Strand Bill) to be unknown to them, and which we must therefore suppose to be some species of divine inspiration vouchsafed alone to the surveyor of the London County Council, when once the *quantum* of benefit has been assessed, its apportionment amongst the individuals interested in the property, the occupier, the owner of the house,

and the owner of the land, is determined by no rule, but is left entirely to the pleasure of the municipal authority, or its nominee, a single arbitrator. The occupier, and the lessee, or either, may, at the discretion of the County Council, or their arbitrator, be allowed to escape scot free from any contribution to the improvement charge, which may accumulate with interest until the freeholder comes into possession, to find his property mortgaged for a debt he did not contract, as to the incurring of which he had no voice, and the consideration for which may have failed, or be exhausted. Thus the receiver of the rack-rent may be pocketing £1,000 a year for a property for which he pays £50 a year ground rent. If the reversion is within measurable distance, anything under twenty years, the Council might determine that the betterment charge ought equitably to be postponed until the termination of the lease (s. 45, subs. 15). Nor is the free-

holder, who is thus selected for this hitherto unknown method of deferred taxation, to be allowed the common law right of every Englishman, when his liberty or his property is at stake, to have his case tried by a jury. A debate in the County Council, or, if he is obstinate enough to object to this handling of his property by a popular and tumultuous assembly, then a decision by a single officer, appointed on the application of the tax-gatherer, is satisfaction enough for him. If taxation were not so serious a business, there would be something irresistibly comic in the sub-section which provides that the provisional award shall be discussed at a meeting of the Council (subs. 4), and confirmed or amended. Imagine a debate at Spring Gardens on the question whether an improvement charge should be borne by Scraggs, lessee of rotten tenement blocks, and a fiery Progressive, or should be allowed to accumulate until the freeholder,

Lord So-and-So, an active member of the Conservative party, comes into possession! This travesty of judicial procedure is worse than nothing, and is a mere aggravation of the original oppression.

2. "The tax which each individual is bound to pay ought to be certain, and not arbitrary. The time of payment, the manner of payment, the quantity to be paid, ought all to be clear and plain to the contributor, and to every other person. Where it is otherwise, every person subject to the tax is put more or less in the power of the tax-gatherer, who can either aggravate the tax upon any obnoxious contributor, or extort by the terror of such aggravation, some present or perquisite to himself. The uncertainty of taxation encourages the insolence and favours the corruption of an order of men who are naturally unpopular, even when they are neither insolent nor corrupt. The certainty of what each

individual ought to pay is, in taxation, a matter of so great importance, that a very considerable degree of inequality, it appears, I believe, from the experience of all nations, is not near so great an evil as a very small degree of uncertainty." Stuart Mill quotes these words of Adam Smith as "having been generally concurred in by subsequent writers," and as therefore "classical." But how can you have certainty in a system of taxation which has no known area and no common ratio? Certainty can only be secured in taxation by adopting certain known political or parochial areas, and establishing a common ratio, a uniform percentage of value, for all who reside within their limits. I have already spoken of the rating zones which have been drawn around Wimbledon Common, and, I believe, other open spaces, an arrangement by which the rate for the up-keep shades away as you get farther from the common. The plan is

perfectly unobjectionable; it combines certainty with uniformity. Everybody who lives in zone A pays a rate of so much in the pound, everybody who lives in zone B pays so much in the pound, and so on: there is a common ratio, a uniform percentage of rental, and a definite area. But uncertainty is the essence of betterment, whose area is arbitrary, and whose rule of apportionment is the opinion of a surveyor. The first time that the London County Council asked for betterment, in the Strand Bill of 1890, its witnesses admitted to the Committee that the betterment area had been drawn upon the map practically at random. The second time, in the case of the Cromwell Road Bridge, in 1892, its area was a half-mile radius from one end of the bridge. This year the area is the "limits of lands to be acquired" as marked upon the deposited plans, which means the area within which it might acquire property by compulsory purchase under the Lands Clauses

Acts, or, as the Americans say, by right of eminent domain. Obviously this area must be different in each improvement, and is therefore absolutely uncertain. The rule of apportionment is even more uncertain than the area, for the latter is at least submitted to Parliament, where an experienced chairman of committee would know pretty well what the "limits of lands to be acquired" ought to be. Or rather there is no rule of apportionment, for there is no common ratio, and the amount of the charge laid upon one property bears no relation whatever to that paid by another. The charge is to be "in respect or in consideration of any increased value or benefit which such lands may respectively derive from the said improvements," the only limitation being that the improvement charge is not to exceed half the enhanced value. Who is to determine that speculative value? The officers of the County Council. Could anything be imagined more

arbitrary? Did ever a public authority demand from a central government a more tremendous weapon? The moment you desert settled and familiar divisions, political or parochial, and abandon a common ratio of apportionment by value, you expose yourself to all the difficulties and dangers which Adam Smith has enumerated, and which are just as real to-day as they were a hundred years ago. When you put it in the power of a popular body, elected on party lines, to select individuals for a peculiar species of taxation, restrained by no rule and guided by no standard of apportionment, the catastrophe can be but a matter of time. The public has a short memory, but many must remember the fall of the Metropolitan Board of Works. That body fell because its members were unable to resist the temptations, to which they were exposed in handling the property, that had to be dealt with in the various metropolitan schemes they undertook. The tempta-

tions to which the Board of Works succumbed were as nothing compared with the temptations that will beset the County Council. The Board of Works acted under the Lands Clauses Acts, upon known rules; the County Council will roam "fancy free" among its constituents, holding in its hands the absolute power to dispose of their properties, to make or mar their fortunes; for it must not be forgotten that in addition to the grosser forms of corruption, the County Council will be exposed to that subtlest of all temptations, before which the most honourable men have been know to fall, the temptation of winning political adherents and punishing political opponents under the cloak of lightening public burthens. To whom will the task of framing the provisional award be entrusted? To the surveyor of the County Council? He will have to employ an army of assistants: who they will be I do not know, nor does anybody. They will be human, they

will not be overpaid, (the Council is stingy in the matter of salaries), and why should they not, in the course of their walks, meet with some Cecil Rhodes, who, naturally anxious to escape their net, will "not fight them, but deal with them"? Or perhaps assessors, or commissioners of estimate, after the American plan, will be appointed to frame the provisional award; and who more likely, or better fitted, to be made assessor of benefits than the coun cillor who represents the district in question? He will be able to assess with judicial eye the exact amount of benefit derived from the new street by Jones the fruiterer (who was the chairman of his committee at the last election), and he will be qualified to weigh with nicety the improvement charge to be divided between Boniface the publican, who stood against him, and the Duke of Blank, the ground-landlord, who subscribed to the fund of the Moderates. Nor needs it any strong

effort of the imagination to conceive the relish with which the purity party on the Council would assess special benefit upon a music hall. On the whole it may be doubted whether Tammany in its palmiest days ever hit upon a smarter device for capturing the city.

It may be urged that the same danger of corruption and oppression attends the assessment and collection of income tax by the officers of the Imperial Government. But in the first place the danger is only great where the value to be determined is purely speculative, as it must be in the case of betterment, for it is impossible to foretell what will be the effect of an improvement upon individual properties. In the Committee on the Strand Improvement Bill, I remember there was a hatter, whose shop is on the south side of the Strand, and who came before us and said (in effect): "It's all very well to talk of the clearing away of Holywell Street as an im-

provement: upon my business it will inflict an injury, because the passengers who now walk on the southern side to avoid Holywell Street will, when you make your new boulevard, walk on the northern, which is the sunny side of the Strand, and so not pass my window, and buy fewer of my hats." In the second place, the danger of corruption is much greater in the case of municipal than imperial officers. The distance between the Imperial Government and its agents is so great, the latter are so dispersed, the constituency is so enormous, the tone of the Treasury and the Board of Inland Revenue is so austere, that corruption and oppression, at all events of a political kind, are practically impossible in this country, though of course in other countries, particularly in the Spanish-American Republics of South America, they are the ordinary weapons of party warfare. But municipal officers are in close touch with the executive

that employs them; austerity is by no means the badge of municipal government; and, as the history of Liverpool and Birmingham proves, party zeal is noticed and rewarded in the distribution of offices of profit. This is the reason why municipal socialism is so much more dangerous than state socialism.

3. The third canon of taxation laid down by Adam Smith is that every tax ought to be levied at the time, or in the manner, in which it is most likely to be convenient for the contributor. Clause 8 of the London Improvements Bill enacts that "the Council and their surveyors, officers and workmen, and any person duly authorised in writing under the hand of the Clerk of the Council may from time to time at all reasonable times in the day upon giving in writing for the first time twenty-four hours and afterwards from time to time twelve hours previous notice enter upon and into the land and buildings, &c., for the purpose

of surveying and valuing, &c." Even a surveyor who has been trained in the service of the London School Board will not be able to make special assessments for benefits without entries more than one upon and into the lands and buildings for the purpose of surveying and valuing. A very careful examination of the exterior and interior of many buildings will have to be made; and many inquisitorial questions will have to be put as to the occupations and earnings of the inmates. The only doubt is, how long will the people, in a country where a man's home is still regarded as his castle, tolerate the poking in of the noses of the Council and their surveyors, officers, and workmen? Canvassers who call for votes in the poorer neighbourhoods occasionally get a rough answer, and they are seldom allowed to pass the door. The repeated entry of surveyors, officers, and workmen to assess for benefits may provoke

something harder than words. Great as will be this inconvenience, it will still be less than the inconvenience, and the injury, to which I have already alluded, of having a provisional award hanging over a property for five, ten, or fourteen years. Many a lessee or owner will be disposed to offer a considerable sum of money to have his improvement charge settled, that he may deal with his property.

4. The fourth canon of taxation is that "every tax ought to be so contrived as both to take out and to keep out of the pockets of the people as little as possible over and above what it brings into the public treasury," and Adam Smith goes on to point out that one of the chief ways in which a tax takes out of the public pocket more than it puts in is when the levying of it requires a great number of officers, "whose salaries may eat up the greater part of the produce of the tax, and whose perquisites may impose another ad-

ditional tax upon the people." I don't see how it can be seriously denied that these special assessments for benefits will be a very costly business for the Council. Property is timid enough and inert enough, God knows. Cowardice is the taint of the respectable classes: "What white lips they have, always apologising, always on the defensive!" exclaims Emerson. But though property is slow to combine, and makes no show at public meetings, it has its horns, and will fight for its life. Owners and lessees, (unless indeed they be completely fascinated by the cobra), will begin by opposing the Betterment Clauses before the Committees of both Houses of Parliament in every Bill that the Council may introduce, and a battle in the Committee Rooms at Westminster, if waged with spirit and resolution, is a costly campaign. Next will come the process of assessing a large number of particular properties for special benefits, and a

separate report on each property will have to be included in the Provisional Award. This will require an army of surveyors, valuers, and assistants, whose salaries will constitute a large item of expense. As some of the occupiers, lessees, or owners are certain to object to the Provisional Award, there will follow the hearing before an arbitrator, or, as I can hardly believe that the right to a jury will be withheld by the Legislature, before a judge and jury. The costs of the hearing cannot fail to be considerable. Troops of expert witnesses will be produced on both sides, and the testimony of eminent surveyors is not obtained for nothing. Both parties will appear by counsel, and doubtless the County Council, with the ratepayers' purse to dip in, will hire the fashionable leader and the leading junior of the day. Leases and deeds of assignment will have to be examined: mortgagees, remaindermen, representatives of deceased builders, private and public trustees,

will spring like Cadmean warriors from the ground, and give battle to the common invader. The County Council will begin to wish betterment at the bottom of the sea. Its bill of costs will eat up the taxes it collects, and though this will be sedulously concealed from the electors, the Moderate party will indeed fail in their duty if they do not bring this fact home to the ratepayers.

But how comes it that a system of taxation which sins, and sins so rudely, against all the undisputed canons of taxation, should be practised so widely in the United States, and should have so many advocates in this country? With regard to the United States, I must repeat that betterment is no creation of the American lawyers. The law of the United States is largely English law. American decisions are quoted in our courts with respect; and were it not so plain that American judges allow special assessments for benefits with

reluctance, I should think I had overlooked some of the legitimate arguments in favour of the system. But betterment is the creation of the American state legislatures, to which no more respect is due than to the resolutions of our County Councils.

Unquestionably, however, in this country betterment has many friends, not only amongst the frank corsairs, who roam the seas in search of booty,—this is not surprising, for "pirates make pennyworths of their pillage and purchase friends,"—but also in the ranks of that party, which was once united in defence of property, but which is now, owing to recent events, I am afraid, a piece of joinery almost as crossly indented and as whimsically dovetailed as was the celebrated ministry of Lord Chatham.

The fact is that betterment has a superficial air of equity, a false appearance of nice adjustment, which cannot but captivate those who have neither the interest nor the time to exam-

ine its intrinsic vices. That those who are specially benefited by the expenditure of public money should be specially taxed in proportion to that benefit, seems so unanswerable, so simple, yet so precise, that it carries something of the conviction of a mathematical proposition to the mind. "To be sure the thing is so d——d right that it must be done," said Charles Fox of the proposal that he should join Lord Grenville after Pitt's death. And that is how betterment strikes many people: the thing appears so right that it must be done: to them the case is too plain for argument. Yet the doctrine is based upon a fundamental and anarchic fallacy, which received its *quietus* from the bare bodkin of John Stuart Mill. The fallacy is known to economic students as the *quid pro quo* fallacy, and is quite incompatible with the existence of a civilised society. The fallacy is so clearly enunciated in the judgment of Ruggles J. (in People *v.* Brooklyn 4. N.Y. 419), that I must

for the last time revert to Dr. Cooley's book (p. 636), to which I am already under such heavy obligation. "A rich man derives more benefit from taxation, in the protection and improvement of his property, than a poor man, and ought therefore to pay more. But the amount of each man's benefit in general taxation cannot be ascertained and estimated with any degree of certainty, and for that reason a property tax is adopted instead of an estimate of benefits. In local taxation, however, for special purposes, the local benefits may, in many cases, be seen, traced, and estimated to a reasonable certainty." As a lawyer I blush to be obliged to quote this wretched sophistry from the bench, for according to its logic the only reason why special assessment for benefits is not applied to imperial taxation is defective machinery. In Chapter II. of the second volume of the *Political Economy*, examining the general principles of taxation, Stuart Mill

exposes, with cutting contempt, this flimsy quackery of reasoning. "There are persons, however, who are not content with the general principles of justice as a basis to ground a rule of finance upon, but must have something, as they think, more specifically appropriate to the subject. What best pleases them is, to regard the taxes paid by each member of the community as an equivalent for value received, in the shape of service to himself; and they prefer to rest the justice of making each contribute in proportion to his means, upon the ground, that he who has twice as much property to be protected, receives, on an accurate calculation, twice as much protection, and, ought, on the principles of bargain and sale, to pay twice as much for it. Since, however, the assumption that government exists solely for the protection of property is not one to be deliberately adhered to, some consistent adherents of the *quid pro quo* principle go on to observe, that

protection being required for person as well as property, and everybody's person receiving the same amount of protection, a poll-tax of a fixed sum per head is a proper equivalent for this part of the benefits of government, while the remaining part, the protection to property, should be paid for in proportion to property. There is in this adjustment a false air of nice adaptation, very acceptable to some minds. But in the first place, it is not admissible that the protection of persons and property are the sole purposes of government. The ends of government are as comprehensive as those of the social union. They consist of all the good, and all the immunity from evil, which the existence of government can be made either directly or indirectly to bestow. In the second place, the practice of setting definite values on things essentially indefinite, and making them a ground of practical conclusions, is peculiarly fertile in false views of

social questions. It cannot be admitted that to be protected in the ownership of ten times as much property is to be ten times as much protected. Neither can it be truly said that the protection of £1,000 a year costs the state ten times as much as that of £100 a year, rather than twice as much, or exactly as much. The same judges, soldiers and sailors, who protect the one protect the other, and the larger income does not necessarily, though it may sometimes, require even more policemen. Whether the labour and expense of the protection, or the feelings of the protected person, or any other definite thing be made the standard, there is no such proportion as the one supposed, nor any other definable proportion. If we wanted to estimate the degrees of benefit which different persons derive from the protection of government, we should have to consider who would suffer most if that protection were withdrawn; to

which question, if any answer could be made, it must be, that those would suffer most who were weakest in mind or body, either by nature or by position. Indeed, such persons would almost infallibly be slaves. If there were any justice, therefore, in the theory of justice now under consideration, those who are least capable of helping or defending themselves being those to whom the protection of government is most indispensable, ought to pay the greatest share of its price." I have quoted this passage at length because it completely disposes of the whole theory of betterment, for there is no difference between the principles of imperial and local taxation. The local government, except in London, protects the persons and property of the ratepayers, and there is nothing to differentiate one function of government from another, or to justify the application of the

quid pro quo principle to one function more than another. To assess particular properties for the amount of benefit derived from the action of the local government in making a new street is setting, or attempting to set, a definite value on something essentially indefinite, something which defies the skill of the surveyor. To lay an improvement charge of £5000 on one property, and one of £500 on another property 200 yards away is as indefensible as it would be to tax the residents in Whitechapel twice as much for the police rate as the residents in Mayfair. No one can deny that the neighbours of Jack-the-Ripper require twice the police protection that suffices for the denizens of Grosvenor Square; and it is notorious that the professional thieves prey chiefly on the poor. If the County Council were given the control of the police to-morrow (*di boni avertite!*) they

ought logically to assess every occupier, lessee, and owner, to the police rate in proportion to the amount of protection received.

Taxes are the contribution of the individual to the society, or subdivision of the society, to which he belongs. They should always be levied in certain areas, and by a common ratio. The benefits which he receives in return are not to be measured by any plumb-line, or appraised by any surveyor, but are conclusively presumed to be all the advantages of that society. There are good cards in life as well as good players; and every member of a civilised community is entitled to profit by the favourable chances that come his way.

Perhaps I ought to apologise, before laying down my pen, to those who are sufficiently interested in the subject to read these pages, for having pressed on their attention nothing but elementary and accepted truths of political economy, often in the language of others.

Having no credit or authority with any one, I have thought it better, where possible, to quote the very words of men of acknowledged eminence, especially when, like Stuart Mill,—"*clarum et venerabile nomen gentibus*," —they belong to the Radical party. The re-statement of general truths is justified by their public defiance: and in days when such extreme laxity of principle prevails, and when men of all parties discover so alarming a disposition to ignore or deny settled and established axioms of government, no excuse is necessary for reminding the people that there are certain canons of taxation whose violation brings its own punishment, and that the greatest of political impostures is the idea that the impoverishment of individuals enriches the State.

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